

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 605 to 681 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

LALLUBHAI JESINGBHAI DECD. BY HEIRS BHUPATBHAI LALLUBHAI

Appearance:

Mr A D Oza, GOVERNMENT PLEADER for Petitioners
MR RN SHAH for Respondent No. 1

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE D.P.BUCH

Date of decision: 29/06/2000

ORAL (COMMON) JUDGMENT (per. Kadri, J.)

By filing this group of First Appeals under
Section 54 of the Land Acquisition Act, 1894 (for short,
'the Act') read with Section 96 of the Code of Civil

Procedure, 1908, the appellants have challenged the common judgment and award dated March 3, 1999 passed by the learned Civil Judge (S.D.), Godhra, in L.A.R. No. 45, 46, 50, 53, 57, 59 to 61, 63, 65, 67 to 75, 77, 80, 83, 84, 87 to 89, 93, 95, 98, 100, 101, 104 to 106, 110, 121, 123, 126, 128, 131, 136, 1137, 139, 140, 142 to 144, 147 to 150, 152, 156, 159, 160, 163, 173, 177 to 179, 181 to 185, 192 to 194, 196, 199 to 202, 204, 205, 208, 209 of 1992, by which the Reference Court awarded additional compensation at Rs.9.06 paise per sq. metre for the acquired lands of the appellants situated at Village Gariyal, Taluka, Halol, District Panchmahals. As common questions of facts and law are involved in this group of First Appeals, we propose to dispose them of by this common judgment.

2. The Executive Engineer, Dev Dam Sinchai Yojana, sent proposal for acquisition of the agricultural land situated at village Gariyal, Taluka Halol for the public purpose of Dev Dam Sinchai Yojana. The said proposal was scrutinised by the State Government and notification to acquire lands of the appellants came to be issued under Section 4(1) of the Act which came to be published in the Government Gazette on January 7, 1982. After following the usual procedure, declaration under Section 6 of the Act was published in the Government Gazette. The respondents were served with notices under Section 9 of the Act and they have claimed compensation at the rate of Rs.15/- per sq. metre for the acquired lands. The Land Acquisition Officer, on the basis of material produced before him, made this award on 23.9.1986 and offered compensation of the acquired lands at Rs. 17,500/- per Hectare. The respondents, feeling aggrieved by the award of the Land Acquisition Officer, filed written statement under Section 18 of the Act requiring the Land Acquisition Officer to refer their applications to the District Court, Panchmahals at Godhra for determination of the market value of the acquired lands. Accordingly, the said applications were referred to the District Court which came to be numbered as Land Acquisition Reference Case numbers as mentioned above. According to the claimants, the acquired lands were fertile. The claimants, to substantiate their claims of enhanced compensation, examined Shri Parvatbhai Kalubhai at Exh.61. He produced Village Form No.7/12 extract of the acquired lands and produced certified copy of the judgment and award in LAR No.118/92 and other Land Reference Cases with regard to the acquired lands of the same village at Exh.47. Previous award Exh.47 was challenged in this Court and the Court (Coram" B C Patel and H R Shelat, JJ.) by order dated 23.12.1996 dismissed

the appeals filed challenging the previous award. Copy of the judgment of the High Court was produced at Exh.51. The common judgment and order of the High Court was challenged in the Supreme Court wherein the SLP was dismissed and the order of the Supreme Court was produced at Exh.52.

3. The Reference Court for the determination of the market value of the present acquired lands mainly relied on previous award Exh.47 which was confirmed by the High Court and the Supreme Court had confirmed the market value of the acquired lands of the same village Gariyal at Rs.10.81 paise per sq. metre. The Reference Court deduced that the acquired lands of previous award Exh.47 and the present acquired lands were of the same village and were having the same fertility and having the same advantageous features. The Reference Court, therefore, held that the previous award Exh.47 was comparable and relevant for determining the market value of the present acquired lands. Determination of the market value for the present acquired lands at Rs.10.81 paise is challenged by the appellants in this group of first Appeals.

4. We have heard the learned Government Pleader Mr Arun D Oza for the appellants and learned Advocate Mr R N Shah for the respondents. Both the learned Advocates have taken us to the entire Records and Proceedings produced before the Reference Court. We are of the opinion that the Reference Court had not committed any error in placing reliance of previous award Exh.47 which was in respect of the acquired lands of same village Gariyal wherein the market value of the lands was determined at Rs. 10.81 paise per sq. metre as on January 7, 1992. The lands of previous award Exh.47 and the present acquired lands were having same fertility and we do not find any infirmity or error committed by the Reference Court in placing reliance on the previous award for determining market value of the present acquired land. Furthermore, the award Exh.47 has become final as it was confirmed by this Court in F.A. No.3358/96 and allied appeals. Therefore, previous award Exh.47 had become final and the Reference Court was justified in placing reliance on the previous award for determining the market value of the present acquired lands. Determination of the market value by the Reference Court at the rate of Rs.10.81 paise per sq. metre of the present acquired lands of village Gariyal is hereby confirmed. The claimants shall be entitled to statutory benefits under Section 23 (1-A) and solatium under Section 23(2) and interest as per amended provisions of

Section 28 of the Act. However, it is clarified that the claimants shall not be entitled to solatium on the additional amount payable under Section 23(1-A) and no interest shall be paid on the amount of solatium as per the decision of the Supreme Court in the case of Prem Nath Kapur v. National Fertilizers Corporation of India, (1996 (2) SCC 71).

With this clarification, we dismiss this group of Appeals. There shall be no order as to costs.

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